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8                   UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA  
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10 DAVID T. GILCHRIST,

No. 3:14-cv-05066-RBL

11                   Plaintiff,

DEFENDANT CAPITAL ONE SERVICES,  
LLC'S ANSWER TO PLAINTIFF'S  
COMPLAINT

12                   vs.

13 CAPITAL ONE SERVICES, LLC,

14                   Defendant.

15  
16                   Defendant Capital One Services, LLC (“Capital One”), by and through its undersigned  
counsel, answers Plaintiff's Verified Complaint for Relief (the “Complaint”) as follows.  
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18                   Except as expressly admitted or qualified hereafter, Capital One denies each and every  
allegation of the Complaint.  
19

**Answer to Plaintiff's Claim**

20                   Capital One denies that it owes Plaintiff \$5,000. Capital One further denies that it  
21 violated Washington State law, either statutes or common law, and denies that it violated the  
22 Telephone Consumer Protection Act (“TCPA”).  
23

DEFENDANT CAPITAL ONE SERVICES, LLC'S  
ANSWER TO PLAINTIFF'S COMPLAINT – 1

**GRAHAM & DUNN PC**  
Pier 70 • 2801 Alaskan Way • Suite 300  
Seattle, Washington 98121-1128  
(206) 624-8300 • (206) 340-9599 Fax

## Affirmative Defenses

1. The Complaint fails to state a claim upon which relief may be granted.

2. Plaintiff failed to mitigate his damages, if any.

3. Plaintiff's claims are barred, in whole or in part, by any amount owing plaintiff to Capital One Bank (USA), N.A.

from Plaintiff to Capital One Bank (USA), N.A.

4. Plaintiff's claims are barred, in whole or in part, by the terms and conditions of his customer agreement with Capital One and Capital One Bank (USA),

5. Plaintiff's claims are barred, in whole or in part, by his prior express consent.

6. Plaintiff's claims are barred, in whole or in part, due to his established business relationship with Capital One.

7. If any violation of law occurred, which Capital One denies, the violation was unintentional and resulted from a bona fide error notwithstanding Capital One's maintenance of procedures reasonably adopted to avoid the error.

8. Capital One expressly reserves the right to assert other affirmative defenses as this action proceeds.

**Wherefore**, Capital One respectfully requests that the Court:

a. Dismiss all of Plaintiffs' claims against Capital One with prejudice and on the merits;

b. Award Capital One all costs, disbursements, and reasonable attorney fees allowed by law; and

c. Grant Capital One any such further relief to which it may be entitled.

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**DEFENDANT CAPITAL ONE SERVICES, LLC'S  
ANSWER TO PLAINTIFF'S COMPLAINT - 2**

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(206) 624-8300 • (206) 340-9599 Fax

1 DATED this 28<sup>th</sup> day of January, 2014.

2  
3 GRAHAM & DUNN PC

4 By: *s/ Steven A. Miller*  
5 Steven A. Miller, WSBA # 30388  
Email: smiller@grahamdunn.com

6 Attorneys for Defendant Capital One  
7 Services, LLC  
Pier 70  
8 2801 Alaskan Way, Suite 300  
Seattle, WA 98121-1128  
Telephone: (206) 624-8300  
9 Facsimile: (206) 340-9599

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DEFENDANT CAPITAL ONE SERVICES, LLC'S  
ANSWER TO PLAINTIFF'S COMPLAINT – 3

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1                   **CERTIFICATE OF SERVICE**

2                   The undersigned certifies under the penalty of perjury under the laws of the State of  
3 Washington that I am now and at all times herein mentioned, a citizen of the United States, a  
4 resident of the State of Washington, over the age of eighteen years, not a party to or interested  
5 in the above-entitled action, and competent to be a witness herein.

6                   On the date given below I caused to be served the foregoing DEFENDANT CAPITAL  
7 ONE SERVICES, LLC'S ANSWER TO PLAINTIFF'S COMPLAINT on the following  
8 individual in the manner indicated:

9                   David T. Gilchrist  
10                  457 21<sup>st</sup> Avenue  
11                  Longview, WA 98632

12                  (X) Via U.S First Class Mail  
13                  ( ) Via Facsimile  
14                  ( ) Via Hand Delivery  
15                  ( ) Via ECF

16                  SIGNED this 28<sup>th</sup> day of January, 2014, at Seattle, Washington.

17                  \_\_\_\_\_  
18                  *s/ Valerie K. Losey*  
19                  Valerie K. Losey, Legal Assistant

20                  DEFENDANT CAPITAL ONE SERVICES, LLC'S  
21                  ANSWER TO PLAINTIFF'S COMPLAINT – 4

22                  **GRAHAM & DUNN PC**  
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